

August 24, 2021

VIA ECF AND EMAIL

Hon. Analisa Torres
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: SEC v. Ripple Labs, Inc. et al., No. 20 Civ. 10832 (AT) (S.D.N.Y.)

Dear Judge Torres:

Pursuant to Rule 29(b) of the Federal Rules of Civil Procedure and Rule I(C) of this Court's Individual Practices, Plaintiff Securities and Exchange Commission ("SEC"), and Defendants Ripple Labs, Inc., Bradley Garlinghouse, and Christian A. Larsen (together, "Defendants") jointly and respectfully request that the Court: (1) permit the SEC to conduct depositions of Garlinghouse and Larsen after the close of the August 31, 2021 fact discovery deadline; (2) correspondingly extend the current expert discovery deadline from October 15, 2021 to November 12, 2021; and (3) permit the parties to exchange their respective Statements of Material Facts pursuant to Local Civil Rule 56.1 ("56.1 Statements") at a later date, to be proposed by the parties at or around the end of the proposed expert discovery deadline. The parties have submitted as Exhibit A hereto a Proposed Order reflecting these joint requests.

I. Depositions after the Fact Discovery Deadline

Fact discovery currently is scheduled to close on August 31, 2021. *See* D.E. 246. However, due to the unexpected illness of an attorney for one of the parties who was integral to the Larsen deposition, and the intervening vacation schedules of other attorneys, the parties will not be able to reasonably complete the previously-scheduled depositions of Garlinghouse and Larsen before August 31. Accordingly, the parties respectfully request that the Court, for good cause shown, allow them to conduct two depositions after the close of fact discovery, on September 14 and September 20, 2021. This is the parties' first request to conduct depositions beyond the close of fact discovery. Other than these two depositions, fact discovery would close, as scheduled, on August 31.¹

¹ If the Court denies Garlinghouse's and Larsen's pending motions to dismiss, the Court has provided that discovery between the SEC and the Individual Defendants may continue for another 120 days. In addition, the SEC and Defendants each moved to compel certain documents last week (D.E. 282, 289). If

II. Expert Discovery Deadline

On June 2, 2021, the SEC moved to extend the original fact and expert discovery deadlines by approximately two months: from July 2 to August 31, 2021 for fact discovery and from August 16 to October 15, 2021 for expert discovery. D.E. 217. Magistrate Judge Netburn granted the SEC's motion. D.E. 246.

As noted above, the parties will be unable to complete the depositions of Garlinghouse and Larsen by August 31, 2021. Expert reports were initially due under the current schedule on September 10. The deposition testimony of these individuals could affect the content of the parties' contemplated expert reports. Accordingly, the parties respectfully request that the Court correspondingly extend expert discovery until November 12, 2021, with opening expert reports due on October 4, to allow for the same amount of time between completion of those depositions and expert reports as under the prior schedule.

III. Statements of Material Facts Pursuant to Local Civil Rule 56.1

Paragraphs 8 and 16 of the Court's Case Management Order, D.E. 48 ¶¶ 8, 16, and Rule III(C) of the Court's Individual Practices together require the parties to exchange their respective 56.1 Statements before the parties file the opposing party's response to the 56.1 Statement with their pre-motion letters regarding motions for summary judgment. Under these procedures, the parties' respective 56.1 Statements are due in early September, before the September 14 deadline for pre-motion summary judgment letters.

However, Garlinghouse's and Larsen's motions to dismiss are pending before the Court, the parties are still conducting fact discovery, two motions to compel are pending before Magistrate Judge Netburn, and the parties are requesting leave to conduct two depositions in September. The parties also expect that expert discovery will affect the contents of their respective 56.1 Statements. Accordingly, the parties respectfully request that they be permitted to propose a briefing schedule for summary judgment and/or pre-motion conference letters and the exchange of 56.1 Statements at a later date, and in any event after the close of expert discovery.

This is the parties' first request for a modification of the schedule for 56.1 Statements and pre-motion summary judgment letters, except insofar as the SEC's request for an extension of the discovery schedule described in Section II above altered the 56.1 Statement and pre-motion summary judgment letter deadlines.

[signature page follows]

Magistrate Judge Netburn grants one or both of those motions, production of those documents may occur after August 31.

Respectfully submitted,

_____/s/_____

Jorge G. Tenreiro
Counsel for Plaintiff SEC

_____/s/_____

Andrew Ceresney
Counsel for Defendant Ripple Labs, Inc.

_____/s/_____

Matthew Solomon
Counsel for Defendant Bradley Garlinghouse

_____/s/_____

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